REMARKS

Applicants respond hereby to the outstanding final Office Action dated March 7, 2008. Claim 11 is cancelled hereby without prejudice or disclaimer of subject matter. Claims 1-10, 12-14 and 16-21 are pending hereinafter, where claims 1 and 17 are the independent claims.

Response to Objections to the Specification

The specification was objected to under 37 CFR 1.75(d)(1) and MPEP 608.01(o), for failing to provide proper disclosure for how a "Resource Manager" is generated in claim 11. In response, applicants have cancelled claim 11, and request that the objection be withdrawn.

Response To Rejections Under 35 USC §102

Claims 1, 11, 15-18, 20 and 21 were rejected under 35 USC 102(e) as anticipated by US Patent No. 7,050,807 to Osborn. The Examiner asserts with respect to independent claims 1 and 17 that Osborne discloses a method and apparatus for provisioning in a computing utility infrastructure, the method comprising:

obtaining a Concrete Resource Model describing a desired resource structure **(col. 3, lines 60-67 and col. 4, lines 1-15)**; and

using the Concrete Resource Model to generate at least one provisioning action to create a matching resource structure in the computing utility infrastructure **(col. 3, lines 60-67 and col. 4, lines 1-15)**.

The Osborn text at **col. 3, lines 60-col. 4, line 15**, states:

"[f]rom information provided in the application specification 34, the application manager

16 also creates an abstract resource description 72 including virtual hardware resource objects 74 which identify application hardware requirements, and which are transmitted to the hardware resource manager 18 and mapped at 76 in the abstraction layer 54 to the available system hardware resources 14, based on the hardware resource interdependency data in the resources specification 78 generated by the hardware resource identifier 19 of the present invention, to create the allocated hardware resources 15 (the object specification 68, the abstract resource description 72 and all other specifications necessary to define an application are subsets of the application specification 34). The objects 36 are then loaded onto the allocated hardware resources 15 through the abstraction layer 54 at 38 to run the requesting application. The hardware resource identifier 19 applies hardware resource constraints and interdependencies as represented generally by the arrows 76 in the static specification stage 60 by interpreting the abstract hardware resource description 72 to enable the available hardware resources 14 to be effectively allocated by the hardware resource manager of the present invention."

With all due respect, applicants do not find a method or apparatus for provisioning in a computing utility infrastructure comprising (means for) obtaining a Concrete Resource Model describing a desired resource structure; and (means for) using the Concrete Resource Model to generate at least one provisioning action to create a matching resource structure in the computing utility infrastructure at Osborn's col. 3, lines 60-67.

While the cited Osborne text does call out the use of an abstract resource description, nowhere does Osborne disclose obtaining a concrete resource model, where the concrete resources model describes such a desired or abstract resource structure (applicants' first claim

element). From information provided in the application specification 34, Osborne's application manager 16 creates an abstract resource description 72 including virtual hardware resource objects 74, which identify application hardware requirements. Osborne's structure does not include a concrete resources model as claimed. Hence, Osborne does not carry out the step of: using a Concrete Resources Model to generate any at least one provisioning action to create a matching resource structure in the computing facility infrastructure (applicants' second claim element).

Osborn's hardware resource objects are transmitted to the hardware resource manager 18 and mapped at 76 in the abstraction layer 54 to the available system hardware resources 14, based on the hardware resource interdependency data in the resources specification 78 generated by the hardware resource identifier 19. Osborn does so to create the allocated hardware resources 15 (the object specification 68, the abstract resource description 72 and all other specifications necessary to define an application are subsets of the application specification 34). The objects 36 are then loaded onto the allocated hardware resources 15 through the abstraction layer 54 at 38 to run the requesting application.

While Osborn's identifier 19 applies hardware resource constraints and interdependencies by interpreting the abstract hardware resource description 72 to enable the available hardware resources 14 to be effectively allocated by the hardware resource manager, Osborne does not use a Concrete Resource Model (describing a desired resource structure) to generate at least one provisioning action to create a matching resource structure in the computing facility infrastructure (as required by applicants' second claim element).

Applicants, therefore, respectfully assert that independent claims 1 and 17 are not anticipated by Osborn under 35 USC § 102(e). Claims 16, 20 and 21 depend from claim 1 and are patentable therewith (claim 11 is cancelled); claim 18 depends from claim 17 and is patentable therewith. Applicants, therefore, request withdrawal of the rejection of claim 1, 16, 17, 18, 20 and 21 under section 102(e) in view of Osborn.

Response To Rejections Under 35 USC §103

Claims 2, 3, 7, 8 and 19 were rejected under 35 USC §103(a) as unpatentable over Osborn in view of Patent No. 6,332,023 to Porter, et al. (Porter).

Applicants respectfully assert that because claims 2, 3, 7, 8 and 19, depend from claim 1, and because claim 1 is patentably distinguishable from Osborn as set forth above in the response to the rejection of claim 1 under Section 102(e) in view of Osborn, combining Porter with Osborn does not remedy the shortcomings of Osborn taken alone (with respect to independent claim 1 or independent claim 17). Accordingly, the proposed combination of Porter and Osborn would not realize a method as set forth in independent claim 1, further qualified by the respective limitations of dependent claims 2, 3, 7, 8 and 19. Applicants respectfully assert, therefore, that claims 2, 3, 7, 8 and 19 are patentable under section 103(a) over Osborn in view of Porter for at least the reasons set forth for the patentability of independent claim 1 in view of Osborn under Section 102(e), and therefore request withdrawal of the rejection of claims 2, 3, 7, 8 and 19 under section 103(a) by Osborn in view of Porter.

Claims 4 and 6 were rejected under 35 USC §103(a) as unpatentable over Osborn in view of Porter, as applied to claim 2, further in view of US Patent No. 4,980,824 to Tulpule, et al. (Tulpule), and still further in view of US Patent No. 4,648,031 to Jenner.

Applicants respectfully assert that because claims 4 and 6 depend from claim 2, because claim 2 depends from 1, because claim 1 is patentably distinguishable from Osborn as set forth above in the response to the rejection of claim 1 under Section 102(e) in view of Osborn, and because claim 2 is patentably distinguishable from Osborn in view of Porter as set forth above in response to the rejection of claim 2 under Section 103(a), combining Jenner and Tulpule with Porter and Osborn does not remedy the shortcomings of Osborn taken alone with respect to independent claim 1, or Osborn taken together with Porter with respect to dependent claim 2. Accordingly, the proposed combination of Porter, Osborn, Tulpule and Jenner would not realize a method as set forth in independent claim 1, and as set forth in dependent claim 2, and further qualified by the respective limitations of dependent claims 4 and 6.

Applicants respectfully assert, therefore, that claims 4 and 6 are patentable under section 103(a) over Osborn and Porter in view of Tulpule and further in view of Jenner for at least the reasons set forth for the patentability of independent claim 1 in view of Osborn under Section 102(e), and the reasons set forth for the patentability of dependent claim 2 by Osborne combined with Porter under Section 103(a). Applicants, therefore, request withdrawal of the rejection of claims 4 and 6 under section 103(a) by Osborn and Porter in view of Tulpule and further in view of Jenner.

Claim 5 was rejected under 35 USC §103(a) as unpatentable over Osborn in view of Porter, as applied to claim 2, and further in view of US Patent No. 4,980,824 to Tulpule, et al. (Tulpule).

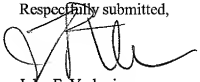
Applicants respectfully assert that because claim 5 depends from claim 2, because claim 2 depends from claim 1, because claim 1 is patentably distinguishable from Osborn as set forth above in the response to the rejection of claim 1 under Section 102(e) in view of Osborn, and because claim 2 is patentably distinguishable from Osborn in view of Porter as set forth above in response to the rejection of claim 2 under Section 103(a), combining Tulpule with Porter and Osborn does not remedy the shortcomings of Osborn taken alone with respect to independent claim 1, or Osborn taken together with Porter with respect to dependent claim 2. Accordingly, the proposed combination of Porter, Osborn and Tulpule would not realize a method as set forth in independent claim 1, nor the method as set forth in dependent claim 2, which depends from claim 1, and further qualified by the respective limitations of dependent claim 5.

Applicants respectfully assert, therefore, that claim 5 is patentable under section 103(a) over Osborn and Porter in view of Tulpule for at least the reasons set forth for the patentability of independent claim 1 in view of Osborn under Section 102(e), and dependent claim 2 in view of Osborne combined with Porter under Section 103(a). Applicants, therefore, request withdrawal of the rejection of claim 5 under section 103(a) by Osborn and Porter in view of Tulpule.

Conclusion

It follows that each of pending claims 1-10, 12-14 and 16-21 are patentably distinct from Osborn under section 102(e), Osborn alone or in combination with Porter under section 103(a), Osborn in combination with Porter and Tulpule under section 103(a) or Osborn in combination with Porter in view of Tulpule and further in view of Jenner under section 103(a). If the Examiner believes that a telephone conference with applicants' attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,



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